

HOUSE BILL 2303
By Casada

AN ACT to amend Tennessee Code Annotated, Section 38-7-108 and Title 55, Chapter 10, Part 4, relative to alcohol and drug related offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 38-7-108(a)(1), is amended by inserting the language "or as the apparent result of a traffic collision," after the language "or in prison,".

SECTION 2. Tennessee Code Annotated, Section 55-10-406, is amended by adding the following language as a new, appropriately designated subsection:

(g)

(1) If a law enforcement officer has probable cause to believe that the driver of a motor vehicle has been involved in an accident resulting in the death of a person, the officer shall cause the driver to be tested for the purpose of determining the alcohol or drug content of such driver's blood. Such test shall be performed in accordance with the procedure set forth in this section and shall be performed regardless of whether the driver does or does not consent to such test.

(2) The results of a test performed in accordance with this subsection shall be admissible in evidence by either the state or the driver of the vehicle in any court or administrative hearing relating to such accident or offense.

(3) Any law enforcement officer who, in good faith and in compliance with this subsection, requests that a driver be tested shall be immune from any civil liability in any action based upon the compliance. The law enforcement officer

also shall be immune from any civil liability for participating in any subsequent judicial proceeding relating to the person's compliance.

SECTION 3. Tennessee Code Annotated, Section 55-10-406(f), is amended by designating the current language as subdivision (5) and by adding the following language as new, appropriately designated subdivisions:

(1) Any health care provider who, in good faith and in compliance with this subsection, provides notice concerning the alcohol concentration of a person's blood or drug content of a person's blood or urine shall be immune from any civil liability in any action based upon the compliance. The health care provider also shall be immune from any civil liability for participating in any subsequent judicial proceeding relating to the person's compliance.

(2) A health care provider providing medical care to a person in a health care facility shall notify, as soon as reasonably possible, any law enforcement officer present at the health care facility to investigate a collision when such provider:

(A) Has a reasonable belief that the person was the operator of a vehicle involved in a collision; and

(B) Becomes aware, as a result of any blood or urine test performed in the course of medical treatment, that:

(i) The alcohol concentration in the person's blood meets or exceeds the amount specified in § 55-10-401; or

(ii) The person's blood or urine contains one (1) or more drugs that are capable of impairing a person's ability to operate a vehicle in a careful and prudent manner.

(3) If no law enforcement officer is present, the provider may notify the municipal or county law enforcement department in the municipality or county where the collision occurred. If the provider is aware of any blood or urine test result but lacks information to form a reasonable belief as to the identity of the operator involved in a vehicle collision, the provider may give notice to a law enforcement officer present or to the municipal or county law enforcement department, as applicable, for each person

involved in a vehicle collision whose alcohol concentration in the person's blood meets or exceeds the amount specified in § 55-10-401 or whose blood or urine contains one (1) or more drugs. The notice by the provider shall consist of the name of the person being treated, the blood alcohol concentration or drug content disclosed by the test, and the date and time of the administration of the test. A law enforcement officer receiving such notice shall have reasonable grounds to believe that a violation of this part has occurred.

(4) For the purposes of this subsection, unless the context otherwise requires:

(A) "Health care facility" includes any program, institution, place, building, or agency, or portion thereof, private or public, whether organized for profit or not, that is used, operated, or designed to provide medical diagnosis, treatment, or rehabilitative or preventative care to any person.

(B) "Health care provider" or "provider" means a person who is licensed, certified, or otherwise authorized or permitted by law to administer health care in the ordinary course of business or practice of a profession and includes, but is not limited to, those individuals listed in subsection (a)(1).

SECTION 2. This act shall take effect July 1, 2004, the public welfare requiring it.